

MFA "Single Audit" Project Team  
Meeting Notes  
May 21, 2014 teleconference

**Review of Agenda and Introductions – attending:** Thomas Shimkin, MTC; Lila Disque, MTC; Bobby Craig, LA; John Maddison, Sutherland, Asbill & Brennan; Roger Bergeron, LA; JA Cline, LA; Lisa Broussard, LA; Bruce Christensen, SD; Emma Fuentes, TX; Darrell Engen, ND; Steve Yang, MTC; Amy Hamilton, State TaxNotes; Ben Abalos, MTC; Elizabeth Harchenko, Facilitator.

**Public Comment – none.**

**Project Work**

- a. Report on research assignments

Tom and Bruce provided a document "Issues and Answers." JA and Emma are still working on their assignment, and have a document in process. Steve also provided a document for the team to review – "Response to Audit Function Survey".

Steve reported that within MTC there is consensus that MTC could be ready to take on the single audits using much of the current infrastructure and procedures. There would likely be a different group of participating states. They also expect there could be many smaller taxpayers. Currently, the MTC auditors focus on Fortune 100 companies.

MTC would need an audit nomination process that had criteria appropriate for remote seller audits. Would likely need more auditors to focus on remote seller audits – slightly different audit objectives than current sales tax audits. MTC would contract to provide the audit service for non-MTC states. The MTC audit program staff envisions a separate function for remote seller audits, reporting to the audit director. Economies of scale are possible. Use existing audit tools and practices where possible.

Discussion – if volume is high, audit scope will be different, audits might be abbreviated. Would not involve use tax – could have an expedited process. Could be an automated audit using electronic tools.

Question: Is it possible to have a "managed audit"? The current program does rely to some degree on work of outside auditors who review taxpayer sales tax data and provide a summary of that data to MTC auditors. Once the MFA is enacted, roll out could start with large taxpayers; focus would probably be on voluntary compliance for smaller firms. Audit selection would probably focus on companies that have a greater risk of error. Standards would be needed for nominations.

Question: large remote seller from State X that has nexus in a few states, which states would audit cover? Possible that an audit might have already been done in states that have physical nexus with the business. How will we know?

MFA threshold for remote sellers that would be subject to state tax jurisdiction is an annual gross receipts test. MTC might need an inventory of businesses that qualify as "remote sellers" under MFA each year, and for which states.

What sources of information would be available to identify remote sellers that should be reporting? Discovery process would be needed – find remote vendors; decide whether they meet the sales threshold; determine whether they are filing; etc.

For states with local governments that have autonomous sales tax authority – nominating process may need to involve locals in identifying audit candidates. We need to look at SSUTA web site and learn what they have already done – there is a central registration system; SSUTA states will have that registration system and data available. The system is being revised to give non-SSUTA states access. Certified Service Providers have agreed to provide some tax validation for their customers. Simplified electronic returns are provided to the states. There will be a huge learning curve for non-SSUTA states. Bruce suggested that it would be good for the team to become familiar with materials on the SSUTA web site. [Ben has posted links on our Project web page.]

SSUTA states should be ready to go once MFA passes, because they have made conforming amendments already that comply with MFA.

There is concern in the House about making remote sellers subject to audit. There is also concern about the states using contingent fee auditors. (LA may still have some ability to allow this; a lot of states do not.) Check to see what contact there is with House Judiciary staff about MFA issues. [Take to Steering Committee or Joe.] Utah Rep. Chaffetz is working on MFA, his staff may be able to provide some information.

Tom and Bruce discussed their report – see document “Issues and Answers”. Key issues: It is difficult to assess how many businesses might qualify as “remote sellers”; depending on the size of the group of affected businesses, MTC will need some additional resources for voluntary compliance. Information exchange that will support access to sourcing databases. Will not be possible to audit a business for its own use tax at the same time as the sales tax audit – this will be problem for some states? Lisa noted that there is a Louisiana Association of Tax Administrators in addition to the Multi-Parish Tax Commission. [Tom reported by e-mail that Colorado handled their autonomous local entities with an opt-in statute: if the local entity wants to take advantage of MFA, it must delegate administration to the state revenue agency.]

b. Review available information – do we need more information on any particular topic? This will be an ongoing question – for now, Elizabeth will incorporate the information shared today into the project description issues list. We will keep track of what we have learned and what we still need to research through the project description.

c. Discuss basic elements of a "single audit" program – still not enough information to begin this step.

**Next Steps and Scheduling of Future Meetings** – next meeting is 6/18.

**Assignments** – all team members are to review SSUTA materials on single audit; Elizabeth will update project description. In her report to steering committee she will ask about sources of information on the political dynamics and about finding some additional team members.

**Adjournment**

